

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VALERIE SMITH,

Plaintiff,

v

Case No. 1:04-cv-651

Hon. Wendell A. Miles

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

ORDER ON MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Plaintiff Valerie Smith brought this action challenging the decision of the Commissioner of Social Security ("the Commissioner") denying her claims for disability insurance benefits and supplemental security income benefits under Titles II and XVI of the Social Security Act. On January 31, 2006, United States Magistrate Judge Ellen S. Carmody issued a Report and Recommendation ("R & R") recommending that the Commissioner's decision be reversed and that the matter be remanded for further factual findings pursuant to sentence four of 42 U.S.C. § 405(g). Neither party has filed objections to the R & R.

The court, having reviewed the R & R filed by the United States Magistrate Judge in this action, and having reviewed the entirety of the file, disagrees with the Magistrate Judge's conclusion that the administrative law judge ("ALJ") failed to articulate any rationale for failing to give controlling weight to statements of plaintiff's purported treating physicians regarding her

limitations. The ALJ offered a number of reasons for declining to give controlling weight to opinions of plaintiff's physicians regarding the extent of her limitations. These include the following:

1. Dr. Griner's statement that plaintiff was 'disabled and unable to function . . .' was based on plaintiff's own statements to the doctor, as opposed to any objective medical findings. Tr. 22.
2. The limitations placed on plaintiff by Dr. Barber were given expressly based on plaintiff's own statements. Id.
3. The statements of Drs. Griner and Barber were inconsistent with the overall evidence of record, including the reports of these doctors themselves. Id.
4. Dr. Barber noted that he could find 'nothing on examination to substantiate' plaintiff's complaints of back and hip pain, and he further noted inconsistencies during his examination that suggested that plaintiff was not being totally credible regarding her complaints. Tr. 21.
5. Dr. Shah opined that plaintiff had only 'mild' osteoporosis and had no difficulty with her gait or in her ability to get on and off the examination table. Dr. Shah also noted that plaintiff exhibited considerable narcotic seeking behavior. Id.¹
6. There was a paucity of objective medical evidence to document the existence of any medically determinable impairment that possibly could cause the severe, totally disabling symptomatology plaintiff alleged., and very little diagnostic or clinical evidence supporting the existence of any real serious pathological abnormalities. Id.

The court concludes that the ALJ gave specific reasons for not affording controlling weight to certain opinions of these physicians. His decision shows a familiarity with the regulatory framework, and his reasons for crediting certain opinions and discrediting others are both good and clear. The ALJ therefore did not violate any procedural right to an plaintiff might

¹The court notes that the record indicates only that plaintiff consulted with Dr. Shah during a very limited period in the latter part of the year 2003, and that Dr. Shah referred plaintiff elsewhere for pain management. Tr. 351, 423-443.

have to an adequate explanation of why the ALJ declined to fully credit her physicians' opinions, and reversal is therefore not required by Wilson v. Commissioner of Social Security, 378 F.3d 541, 545-548 (6th Cir. 2004). The court therefore rejects the conclusion reached by the Magistrate Judge and instead concludes that the decision of the Commissioner denying benefits should be AFFIRMED.

Entered this 14th day of March, 2006.

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge